



DEPARTMENT OF TAXATION

News Release

LINDA LINGLE
GOVERNOR

KURT KAWAFUCHI, DIRECTOR
Phone: (808) 587-1540
Fax: (808) 587-1560

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DEPARTMENT OF TAXATION CREATES

SPECIAL ENFORCEMENT SECTION WITH EMPHASIS ON CASH ECONOMY

HONOLULU – The State of Hawai'i Department of Taxation (DOTAX) is finalizing plans to implement Act 134, also known as the "Cash Economy Enforcement Act of 2009," which was signed into law by Governor Linda Lingle on June 18, 2009. Act 134 provides DOTAX with additional resources and tools to target cash-based transactions in order to ensure that all sectors of Hawai'i's economy are paying their fair share of taxes.

Act 134 establishes the Special Enforcement Section (SES) which will civilly investigate reported or suspected violations of tax laws, with a special emphasis on cash-based businesses. These cash-based (both for-profit and not-for-profit) businesses are those where goods, services, and other transactions are paid for substantially in cash and where the business is found to have met one or more of a number of factors, including substantially underreporting or misreporting the proper amount of tax liability on any tax return, failing to have a license to do business as required by law, having no fixed and permanent principal place of business, or not accepting checks or electronic payment devices for business transactions.

The SES is authorized to inspect books, records, and premises, without notice, if a warrant or writ of entry is issued by a circuit court based upon probable cause, and may seize and levy any assets in the custody or control of the person. The SES may issue cease and desist citations to any person if there is cause to believe the person has violated, is violating, or is about to violate any provision of title 14 or any adopted administrative rule, and may bring civil actions in the circuit court to enjoin any unlawful act under title 14 by a cash-based business.

In addition, several new civil tax-related fines contained in Act 134 that went into effect on July 1, 2009 are applicable to both cash-based and noncash-based businesses:

- A fine for failing to produce upon demand by the SES any license or permit required under title 14. The fine may not exceed \$1,000 for cash-based businesses, and may not exceed \$500 for all other persons.
- A fine for failing to produce any books or records upon demand of the SES, if those books or records must be kept pursuant to a provision of title 14. The fine may not exceed \$2,000 for cash-based businesses, and may not exceed \$1,000 for all other persons.
- A fine for conducting more than 10 taxable business transactions per day in cash and failing to provide a receipt or other record of the transaction when the means for issuing a receipt or recording the transaction are available. The fine may not exceed \$2,000 for cash-based businesses, and may not exceed \$1,000 for all other persons.
- A fine for conducting more than 10 taxable business transactions per day in cash and failing to record the transaction in a cash register when the means for recording the transaction in the cash register are available. The fine may not exceed \$2,000 for cash-based businesses, and may not exceed \$1,000 for all other persons.
- A fine for selling, offering to sell, or otherwise conveying more than one price for any business to be transacted when the lower price is offered if the transaction is paid for in cash, unless there is a legitimate business purpose for the separate prices. The fine may not exceed \$3,000 for cash-based businesses, and may not exceed \$2,000 for all other persons.
- A fine for a person engaging in business in this state for possessing currency in the form of coin or note, where the possession is for tax avoidance purposes. The burden of proof for establishing tax avoidance purposes is on the department. The fine may not exceed \$3,000 for cash-based businesses, and may not exceed \$2,000 for all other persons.
- A fine for any person intentionally interfering with, hindering, obstructing, preventing, or impeding any investigator, auditor, collector, or other employee of the department from obtaining license information, books, records, articles, or item of business transacted, or other information or property rightfully entitled to the department. The fine may not exceed \$2,000. A showing of good cause is an absolute defense to this fine.
- A fine for any person who receives gross income from business conducted in the state without first obtaining a license under chapter 237. The fine may not exceed \$2,000 for cash-based businesses, and may not exceed \$500 for all other persons. The director may waive this fine upon a showing of good cause.

Act 134 also makes it a criminal offense for any person to interfere, hinder, obstruct, prevent, or impede any investigator or employee of the department with violence or threat of violence.

For more information about Act 134, visit www.hawaii.gov/tax, or call (808) 587-1611 between the hours of 7:45 a.m. through 4:30 p.m., Monday through Friday, excluding State holidays. Hearing-impaired users only may transmit inquiries calling (808) 587-1418 (O'ahu only) or 1-800-887-8974 (neighbor islands).

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For more information, contact:
Kurt Kawafuchi
Director, State of Hawai'i Department of Taxation
Phone: (808) 587-1540